

**State of Florida**  
**Department of Financial Services**  
**Request for Proposals#**  
Number: DFS AA RFP 12/13-01  
**Automated Fingerprint-Based Applicant Processing System**

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**SECTION 1: INTRODUCTORY SECTION**

**1.1. Purpose**

The Department of Financial Services (“Department”) is interested in obtaining competitive sealed bids from qualified Contractors (“Proposer”) to provide the following services: electronic Livescan processing of fingerprints and processing of traditional fingerprint cards (paper and ink), which includes payment of services and customer support for the Department of Financial Services, and other program areas within the Department as needed. The Department seeks to improve its current level of service and productivity in areas described in this RFP through a qualified contractor (“Contractor”).

**1.2. Purchasing Agent**

The Purchasing Agent is the sole point of contact from the date of release of this RFP until selection of a successful Proposer. All procedural questions and requests for clarification of this solicitation shall be submitted in writing to:

Department of Financial Services  
Attn: Gloriann McInnis, Purchasing Services  
200 East Gaines Street, Larson Building  
Tallahassee, FL 32399-0317  
Email: [gloriann.mcinnis@myfloridacfo.com](mailto:gloriann.mcinnis@myfloridacfo.com)  
Fax: 850/487-2389

Between the release of the solicitation and the end of the 72-hour period following the agency posting of the notice of intended award, excluding Saturdays, Sundays, and state

holidays, Proposers to this solicitation or persons acting on their behalf **shall** not contact any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the Purchasing Agent as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a Proposal. Willful violation of the requirements of this subsection shall result in elimination of the offending entity from consideration for award of contract under this RFP.

**The Department cannot accept telephone calls from any Contractor regarding a pending solicitation.** Please note that questions will NOT be answered via telephone. Responses to questions will be posted on the Contractor Bid System (“VBS”) website, at [http://myflorida.com/apps/vbs/vbs\\_www.main\\_menu](http://myflorida.com/apps/vbs/vbs_www.main_menu) (modifies PUR 1001 ¶5).

### **1.3. Purchasing Instructions and General Conditions**

PUR Form 1001, General Instructions to Respondents, and PUR Form 1000, General Conditions, which, except as modified by these Special Conditions, are incorporated and are attached or available online at [http://dms.myflorida.com/business\\_operations/state\\_purchasing/documents\\_forms\\_references\\_resources/purchasing\\_forms](http://dms.myflorida.com/business_operations/state_purchasing/documents_forms_references_resources/purchasing_forms)

### **1.4. Timetable**

The following schedule will be strictly adhered to in all actions for this solicitation:

<u>Date/Time</u>	<u>Action</u>
August 13, 2012	Release of solicitation
August 27, 2012 by 5:00 P.M. ET	Last day for written inquiries
September 10, 2012, on or about	Written responses to inquiries posted
September 24, 2012 by 3:00 P.M. ET	Proposal Submissions due
October 16, 2012, on or about	Estimated Posting of Intent to Award

The Department reserves the right to make adjustments to this schedule and will notify participants in the solicitation. Adjustments to the schedule will be announced to all Proposers who have expressed interest by participating in the events listed in the table above.

### **1.5. Proposer’s Conference.**

There *will not* be a Proposer’s conference.

### **1.6. Definitions**

#### Solicitation Definitions:

1.6.1 "Business days" include only Monday through Friday, inclusive, except for holidays declared and observed by the state government of Florida.

- 1.6.2 "Business hours" means 8AM to 5 PM on all business days. "Day" means business day (defined as the Department's normal working hours) unless otherwise described.
- 1.6.3 "Calendar days" means all days, including weekends and holidays, except that if the last day counted falls on a weekend or holiday, the due date shall be the next business day thereafter.
- 1.6.4 "Contract," unless indicated otherwise, refers to the contract that will be awarded to successful Proposers under this RFP.
- 1.6.5 "Contractor," unless indicated otherwise, refers to a business entity to which a contract has been awarded by the Department in accordance with a proposal submitted by that entity in response to this RFP. This may also be referred to as "Provider".
- 1.6.6 "Department" means the Department of Financial Services, or Chief Financial Officer. Terms may be used interchangeably. This may also be referred to as Buyer, Customer or "DFS".
- 1.6.7 "Desirable Conditions" designated by the use of the words "should" or "may" in this solicitation, indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such a desirable feature, will not in itself cause rejection of a proposal.
- 1.6.8 "Mandatory Requirements" means that the Department has established certain requirements with respect to proposals to be submitted by Proposers. The use of "shall", "will" (except to indicate simple futurity) or "must" in this solicitation indicates that compliance is mandatory. Failure to meet mandatory requirements will cause rejection of the proposal or termination of a contract.
- 1.6.9 "Minor Irregularity," used in the context of this solicitation and contract, indicates a variation from the proposal terms and conditions which does not affect the price of the Proposal or give the proposer an advantage or benefit not enjoyed by other proposers, or does not adversely impact the interests of the Department.
- 1.6.10 "Proposer" means the entity that submits materials to the Department in accordance with these Instructions, or other entity responding to this solicitation. This may also be referred to as Respondent, or Contractor. The solicitation response may be referred to as Bid, Proposal, or Response.
- 1.6.11 "RFP" refers to this Request for Proposals and includes attachments to this Request for Proposals unless stated otherwise.
- 1.6.12 "Contractor Bid System" and "VBS" refers to the State of Florida internet-based contractor information system at [http://myflorida.com/apps/vbs/vbs\\_main\\_menu](http://myflorida.com/apps/vbs/vbs_main_menu)
- 1.6.13 AFAPS: The term AFAPS as used in this RFP means an Automated Fingerprint-Based Application System.
- 1.6.14 Livescan: Livescan is a system for the electronic securing of and submission of an applicant's fingerprints and subsequent automated background check and receipt of response criminal history background report from the FDLE and the FBI.
- 1.6.15 Cardscan: Cardscan is a system for electronic scanning of the traditional fingerprint cards which are ink based paper fingerprint cards that contain both rolled and plain fingerprint images. The outcome of the Cardscan process is the

Department's receipt of an applicant's criminal history background report from the FDLE and the FBI.

1.6.16 FDLE: FDLE means the Florida Department of Law Enforcement.

### **1.7. Solicitation Terms and Conditions.**

The provisions of this solicitation, including the RFP and all its attachments, shall be read as a whole. In case of conflict between provisions, provisions shall have the order of precedence listed below, where the top listed item has the highest precedence:

- The Contract (Attachment C to the RFP)
- Statement or Scope of Work sections of the RFP (Section 2 this RFP)
- Remaining RFP Sections
- Other Attachments to the RFP
- Instructions to Respondents (PUR 1001)
- General Conditions (PUR 1000)

If there are any perceived inconsistencies among any of the provisions of the RFP and its attachments, Proposers shall bring these inconsistencies to the attention of the Department prior to the submission of the Proposal. To report inconsistencies, Proposers must submit a formal question prior to the submission of a Proposal. The Contract, Attachment C, after execution by the parties, will take precedence over the RFP document.

The Department objects to and shall not consider any terms or conditions submitted by a Proposer, including any appearing in documents attached as part of a Proposer's Proposal, which are inconsistent with or contrary to the requirements, terms, or conditions of this RFP. In submitting its Proposal, a Proposer agrees that any such inconsistent or contrary terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect, and that the Department shall not be held to have acquiesced to such term or condition. Failure to comply with terms and conditions of the RFP, including those specifying information that must be submitted with a Proposal, shall be grounds for rejecting a Proposal. [Modifies PUR 1001 ¶4]

### **SECTION 2: TECHNICAL SPECIFICATIONS AND SCOPE OF SERVICES**

The scope of services being sought is for the Department of Financial Services. This section addresses the specific needs of the program areas as well as the technology-related services. **During the life of this contract, the Department reserves the right to add fingerprinting services and/or other program areas within the Department.** The specifications included in this section are intended to inform Proposers of the minimum expectations of the Department. Proposers are encouraged to expand on the minimum requirements as specified:

- 2. A: *Scope of Services*
- 2. B: *Technology Related Services*
- 2. C: *Statistical Data*
- 2. D: *Financial Consequences*

## **2.A. SCOPE OF SERVICES**

The Bureau of Agent and Agency Licensing with the Division of Agent and Agency Services is responsible for examinations and licensure of insurance agents, adjusters, bail bond agents and other insurance-related representatives pursuant to Florida Statutes, Chapter 626, Part I, 626.171(4) and Chapter 648. As part of determining eligibility for licensure to insure that only qualified individuals service the insurance-buying public of Florida, the Department may not approve an application for licensure for agents, adjusters and other insurance-related representatives if an applicant's fingerprints have not been submitted.

### **2.A.1. Fingerprinting Process**

The contractor will provide an Automated Fingerprint-Based Applicant Processing System (AFAPS) that will accommodate Florida resident insurance agent licensing applicants through electronic Livescan stations, as well as fingerprint Cardscan stations to accommodate all paper card submissions. As the technology becomes available, the contractor may use Livescan connectivity in other states to forward fingerprints electronically to FDLE as an option for nonresident applicants.

The Contractor must maintain a data management system that provides an online registration process. The online registration process must accommodate Livescan customers as well as Cardscan functionality for the Department's nonresident customers. For Cardscan customers, the Contractor must mail two pre-populated paper fingerprint cards to nonresident insurance agents and other representatives within two-business days of registration and payment. Pre-populated cards will utilize the data submitted during the online registration process. The Contractor will include a process for handling applicants who do not have, or do not provide a social security number when processing paper fingerprint cards. Contractor shall provide to applicants legally required disclosures regarding use of social security numbers in a format provided by the Department. All pre-populated paper cards completed by the applicant must be returned to the Contractor for processing. All fingerprints, Livescan and Cardscan, shall be sent to the FDLE within two-business days of receipt by the Contractor. The error rate for electronically transmitted fingerprints, which will be reported to the Department in monthly reports and electronically transmitted fingerprints, shall not exceed a 5% error rate.

The Contractor must make provisions for handling fingerprints being returned by FDLE as illegible (too light or too dark for the scanners to read) and as reported by the Department to the Contractor.

Demographic information and data required for submitting fingerprints shall be collected when the applicant accesses the Contractor's online registration process and submits fingerprint payment. This will eliminate the need for operator entry of the data. The demographic data elements will include at a minimum:

- Name (Last, First, Middle)
- Home Address
- Day-time Phone number

- Email address
- Date of Birth
- Gender
- Height
- Weight
- Race
- Hair Color
- Eye Color
- Place of Birth
- Citizen Country
- Social Security Number\*

\*Note: Contractor is to display verbiage provided by the Department anywhere a Social Security Number is required or requested to be entered. This verbiage describes the legal basis for the requirement, or request, if it is mandatory, and the purpose for which the Social Security Number will be used.

If the proposer has additional solutions to eliminate operator entry errors, or other means for accomplishing nonresident fingerprints, please include them in the proposal.

Work Tasks, Section 2.A.1.

- The Contractor will provide an online registration process for all Livescan and Cardscan submissions, and will collect demographic information and data as required for submitting fingerprints.
- The Contractor will collect and process fingerprints as instructed in Section 2.A.1.
- The error rate for electronically transmitted fingerprints shall not exceed a 5% error rate per fiscal year.

**2. A.2. Fingerprint Equipment**

A data management system is required to be maintained for all Livescan and Cardscan fingerprints. The data management system is responsible for receiving electronic ten-print records at designated sites, logs records into the system, then forward copies of the record to the Florida Department of Law Enforcement via an FDLE-certified electronic interface. FDLE will check each record against Florida’s criminal fingerprint database and forward a copy of the record to the Federal Bureau of Investigations (FBI) for a search of FBI’s criminal database. The system must maintain an unchangeable audit trail showing the time and date it received each fingerprint record and the time and date each is forwarded to FDLE.

The Contractor must provide a server with adequate disk storage to retain an appropriate time frame in storing of fingerprint submissions in the event a communications circuit is not operational. Upon restoration of communication, the information must be sent to the FDLE without the need to re-fingerprint applicants.

The Contractor will use and maintain FDLE and FBI certified store-and-forward server with necessary software to provide the functionality for receiving fingerprint records

from the Livescan workstations and card scanning stations on the AFAPS network. The records will be temporarily stored on the server while the prints are being processed. The records will be forwarded to the FDLE for processing by FDLE and FBI.

The Contractor will provide proper training to all employees as well as to all subcontractors and their employees to prevent processing errors, server errors and breaks in service.

The Contractor shall contact the Department within four (4) hours if there is a break in service due to technical problems with the equipment that results in down time. Repair or replacement shall be made of a Livescan workstation, scanner, or Cardscan workstation within 24 hours of receiving notice that the system is inoperable. Should a site be inoperable for more than 48 hours, the Contractor will submit a plan for a temporary site with the Department's approval.

Work Tasks, Section 2.A.2.

- Maintain a data management system of all fingerprints for Livescan and Cardscan applicants with an unchangeable audit trail showing the time and date it received each fingerprint record and the time and date each is forwarded to FDLE.
- Maintain a certified store-and-forward server with software for receiving records from LiveSan and CardScan stations with the ability to submit records and interact successfully with the FDLE.
- Any breaks in service as noted in section 2.A.2. are to be reported to the Department within 4 hours of technical problems. Repairs or replacements shall be made within 24 hours of receiving notice that the system is inoperable.

**2. A.3. Fingerprint Fees Payment Process**

The Contractor must provide a secure website for collecting fees directly from the applicant or other entity on behalf of the applicant for both Livescan and Cardscan transactions. The method of payment shall be web-based in conjunction with the online registration process. The method of payment shall include, but not be limited to American Express, VISA, MasterCard and Discover. The Proposer must include its solution for collecting payments from applicants as part of their response for this RFP.

Work Tasks, Section 2.A.3.

- Contractor must collect all fingerprint application fees from applicants to complete the registration process through a secure payment website.

**2. A.4. Fingerprint Costs and Expenses**

The Contractor will be responsible for all costs and expenses. All purchases, installations, and maintenance of equipment required for the Livescan and Cardscan processes; fees or other costs or expenses associated with the fingerprinting sites; employment of onsite Livescan personnel and Cardscan personnel; and any administrative or other costs or expenses related to fulfillment of this contract are the responsibility of the Contractor.

Payment of all processing fees to the Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigation (FBI) are the responsibility of the Contractor. Payment is made to FDLE who then passes said fees to the FBI. The Contractor will set up a payment plan via a credit card with FDLE for payment of fees. These fees must be paid prior to the fingerprints being processed. It is essential that the Contractor's credit card have adequate credit limits to handle all transactions immediately upon submission. Fingerprint processing delays due to inadequate credit limits on credit cards shall be considered a breach of the contract. Non-payment or late payment reported to the Department by FDLE shall be considered as a breach of the contract.

Work Tasks, Section 2.A.4.

- The Contractor will set up a payment plan via a credit card with FDLE for payment of fees with all fees paid prior to fingerprints being processed or as FDLE dictates payment for services. The credit card will have an adequate credit limit to handle all transactions immediately upon submission to FDLE.

**2. A.5. Website Scheduling and Payment Availability**

The Contractor must provide a secure website for applicant use. The Contractor will provide each Department business area with a unique web address (URL) for fingerprint applications to ensure fingerprint results are sent to the correct business area. Each business area will have a unique Originating Agency Identification ORI number.

The Contractor must maintain website availability to applicants twenty-four (24) hours a day, seven (7) days a week, excluding scheduled maintenance times. Emergency outages must be reported to the Department within four (4) hours and scheduled maintenance must be reported at least forty-eight (48) hours in advance to the Department's Contract Manager by the Contractor.

The website must include security provisions for accepting personal and financial information, where applicants may provide demographic data, pay fees and access directions to fingerprinting locations.

Work Tasks, Section 2.A.5.

- Contractor must provide a website for applicant use and must be available twenty-four (24) hours a day, seven (7) days a week, with the exception of emergency outages or scheduled maintenance.
- Scheduled maintenance must be reported to the Department at least forty-eight (48) hours in advance. Emergency outages must be reported to the Department within four (4) hours.

**2 A.6. Call Center**

The Contractor must maintain a functional call center by providing telephonic service with availability at a minimum of Monday through Friday, during business hours approved by the Department. The Contractor will provide a toll free, program-specific phone number, which will serve as its single touch-point for telephone reservations and



follow up inquiries for Livescan applicants. The Contractor's call center must not be non-functional for Florida candidates for more than twelve (12) consecutive business hours per the Contractor's call center hours of operation and excluding emergency weather conditions. Emergency conditions must be reported by the Contractor to the Department's Contract Manager within four (4) hours by the Contractor.

The Call Center will be operated by competent staff to answer questions from the user/applicants regarding the system and its use, and shall provide services as needed to the Department.

#### Work Tasks, Section 2.A.6.

- Contractor must provide a functional call center for applicant use, and must be available during the agreed upon hours of operation, with the exception of emergency outages or scheduled maintenance.
- Call center must not be non-functional for more than twelve (12) consecutive hours.
- Scheduled maintenance must be reported to the Department at least forty-eight (48) hours in advance. Emergency outages must be reported to the Department within four (4) hours.
- Contractor will provide competent staff who can answer questions from applicants regarding the system and its use and other services as needed to the Department per section 2.A.6.

#### **2. A.7. Fingerprinting Locations**

The Contractor shall provide sites for the Livescan stations throughout the state that take into consideration population density, relative distance between fingerprinting sites, and ease of access for applicants. The Proposer shall list recommended sites as part of their proposal and the days and times that each site will be open. Once sites are established and approved by the Department, fingerprinting sites may not be closed without prior approval by the Department. In addition, FDLE approved fingerprint Cardscan stations must be provided to accommodate the electronic scanning of all paper cards for all nonresident applicants and non U.S. citizens as needed. All fingerprint sites must be ADA compliant.

Subcontractors will be allowed and each site must be FDLE approved. The Contractor accepts all liability and responsibility for subcontractor performance under this RFP.

All subcontractors must be approved by the Department prior to accepting fingerprints under the terms of the Contract that will result from this RFP. The Contractor may not make any modifications to the approved list of fingerprinting sites, such as, closings, additions, modification of hours, without justification for the changes and prior approval by the Department.

The Department currently offers 59 locations reflected in Section 2.C. below. Fingerprinting sites must be open at least 5 days per week, unless otherwise approved by the Department. The contractor may be required to provide additional fingerprinting sites

or extend the number of days that sites are open as customer demands dictate the need as determined by the Department.

Work Tasks, Section 2.A.7.

- The contractor must provide appropriate fingerprinting sites as specified in Section 2.A.7.; sites must adhere to the hours of operation as specified in the contract. Modifications to fingerprinting sites as noted in Section 2.A.7. must be approved in advance by the Department.

**2.A.8. Reporting**

The Contractor will submit monthly and yearly reports detailing system usage and transactions. The transaction reports shall provide details of the activity of each LiveScan and CardScan station. The reports shall indicate total transactions for each station with an indication of initial scan and re-scan prints. The monthly report will also include fees paid and demographic data as noted in Section 2.A.1. Monthly reports will be submitted to the Department by the 7<sup>th</sup> of each month for the preceding month, and the Annual report will be submitted by the 30<sup>th</sup> of January.

When fees are paid, a detailed monthly report must be filed with the Department showing the applicant's name, last four digits of their social security number, the date prints were sent to FDLE, and total amount paid. The report shall differentiate between LiveScan payments and Cardscan payments.

The Contractor must submit an annual statistical report of the number of applicant appointments by web and call center scheduling, and the number of transactions processed through LiveScan and CardScan.

Work Tasks, Section 2. A.8.

- The Contractor will provide a monthly report of payments made, as well as demographic data. The report will be provided by the 7<sup>th</sup> day of the month for the preceding month. The monthly report will provide differentiation between Live Scan and Cardscan payments by payment type.
- The submission of an electronic monthly report, submitted by the 7<sup>th</sup> of the month for the preceding month, which will include:
  - Transaction activity by station of each LiveScan and Cardscan stations, to include daily, weekly, monthly and year-to-date totals for each station with an indication of initial scan and re-scan prints.
  - Fees paid, differentiated by LiveScan and CardScan.
  - Demographic data as required for fingerprinting, differentiated by LiveScan and Card Scan.
- The contractor will provide an annual report regarding the number of appointments scheduled via a web-based application, as well as telephonic scheduling for each location and the number of transactions processed for LiveScan and CardScan.

**2.B. TECHNICAL SPECIFICATIONS**

The specifications included in this section are intended to inform Proposers of the minimum expectations of the Department. Proposers may expand on the minimum requirements as specified in the Scope of Work or as follows:

**2.B.1. Technical Plan**

The Proposer shall provide a technical plan which explains the technical approach, capabilities, and means to be used in accomplishing the tasks in the Scope of Services, and where significant development difficulties may be anticipated and resolved. Any specific techniques to be used should also be addressed.

2.B.1.(a) Data Security

2.B.1.(a).i. The Proposer shall provide a plan to maintain and secure adequate back-up files of all documentation and programs utilized to process data submissions.

2.B.1.(a).ii. The Proposer shall provide a plan for implementing data security procedures to ensure only authorized access to data submissions and databases by Contractor personnel (to include subcontractor personnel) for contracted activities.

2.B.1.(b) Transition

The Proposer must provide a plan to ensure an orderly smooth transition from the current Contractor, and ensure smooth transition to another Contractor at the expiration of the Contract that will result from this RFP.

**2.B.2. Disaster Plan**

The Proposer shall provide a disaster recovery plan addressing partial or total loss of the system capability due to natural disaster, computer virus attack, network communication loss, or loss of electrical supply.

**2.B.3. Project Implementation**

The Proposer shall provide a state rollout plan for the statewide Automated Fingerprint-Based Applicant Processing System (AFAPS) that details the planned schedule of activities and initial operations by counties covered.

**2.C. CURRENT LIVESCAN LOCATIONS**

	Fingerprint Site Locations	Number of Fingerprints Administered 2010-2011 Fiscal Year
1	Alachua	491
2	Baker	0
3	Bay	234

4	Bradford	10
5	Brevard	564
6	Broward	3,339
7	Calhoun	0
8	Charlotte	164
9	Citrus	89
10	Clay	280
11	Collier	395
12	Columbia	63
13	Dade	3,253
14	De Soto	0
15	Dixie	0
16	Duval	1481
17	Escambia	397
18	Flagler	70
19	Franklin	0
20	Gadsden	0
21	Gilchrist	0
22	Glades	0
23	Gulf	0
24	Hamilton	0
25	Hardee	0
26	Hendry	0
27	Hernando	183
28	Highlands	121
29	Hillsborough	2,514
30	Holmes	0
31	Indian River	148
32	Jackson	79
33	Jefferson	0
34	Lafayette	0
35	Lake	238
36	Lee	796
37	Leon	935
38	Levy	0
39	Liberty	0
40	Madison	23
41	Manatee	364
42	Marion	387
43	Martin	15

44	Monroe	40
45	Nassau	0
46	Okaloosa	210
47	Okeechobee	0
48	Orange	1,713
49	Osceola	173
50	Palm Beach	2,123
51	Pasco	396
52	Pinellas	1,613
53	Polk	1,141
54	Putnam	28
55	St. Johns	210
56	St. Lucie	459
57	Santa Rosa	157
58	Sarasota	649
59	Seminole	1,540
60	Sumter	0
61	Suwannee	0
62	Taylor	4
63	Union	0
64	Volusia	391
65	Wakulla	0
66	Walton	0
67	Washington	0
68	Cardscan (Non Residents)	33,734
68	TOTAL	61,214

## 2.D. FINANCIAL CONSEQUENCES

### 2.D.1. Critical Work Tasks

Accurate and timely delivery of fingerprint services and reports of these services are imperative to the success of the program area. The work effort described in this RFP involves many tasks; however, some of these tasks are critical for the success of the program area. Therefore, the contract will identify the tasks described in this section as critical and associated with financial consequences. The damages are differentiated by tiers because the impact of non-performance is greater for some tasks than for others. The highest tier represents the most harmful impact on the program. The Contractor's failure to complete critical work tasks both in an acceptable manner to the Department and on

time will result in substantial damage to the Department; however, the amount of damages resulting from such failure cannot be calculated with certainty. Each such failure to complete a critical work task both correctly and on time is hereinafter referred to as a default. Defaults shall be deemed corrected on the date that the work task has been correctly completed. For each default, the Contractor shall be liable to the Department for financial consequences and not as a penalty, as set forth below.

Tier 1 Critical Work Tasks:

Tier 1 critical work tasks include the deliverables described below. The due date for each Tier 1 deliverable is either linked to a specific calendar date or a specific timeline. The due dates for each task will be identified precisely in this RFP or in the contract. If the specified due date falls on a weekend or holiday, then the effective due date will be the next business day.

- Contractor must provide a website for applicant use and the website must be available twenty-four (24) hours a day, seven (7) days a week, with the exception of emergency outages or scheduled maintenance.
- Contractor must provide a functional call center for applicant use, and the call center must be available during the agreed upon hours of operation, with the exception of emergency outages or scheduled maintenance.
- Contractor will provide a Call Center with competent staff who can assist applicants regarding fingerprint services and within scope of services which will be operational during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday excluding holidays.
- The Contractor will provide an online registration process for all Livescan and Cardscan submissions, and will collect demographic information and data as required for submitting fingerprints.
- The Contractor will mail applicants pre-populated paper cards with data the applicant typed into the online registration interface; and receive all completed paper cards for further processing.
- All fingerprints, Livescan and Cardscans, shall be sent to the Florida Department of Law Enforcement (FDLE) as noted within the scope of services.
- The Contractor will set up a payment plan via a credit card with FDLE.
- The Contractor must provide appropriate fingerprinting sites as specified in Section 2.A.7.; sites must adhere to the hours of operation as specified in the contract; and, breaks in service as noted in section 2.A.7. are to be reported to the Department within 4 hours of technical problems. Repairs or replacements shall be made within 24 hours of receiving notice that the system is inoperable.

For each default on a Tier 1 Critical Work Task, the Contractor shall be liable to the Department for an amount of five hundred dollars (\$500.00) per business day from the occurrence to the correction of the default, as financial consequences for such delay, and not as a penalty.

Tier 2 Critical Work Tasks:

Tier 2 critical work tasks include the deliverables (activities and reports) described below. The due date for each Tier 2 deliverable is either linked to a specific calendar date or a specific timeline. The due dates for each task will be identified precisely in this RFP or in the contract. If the specified due date falls on a weekend or holiday, then the effective due date will be the next business day.

- The error rate for electronically transmitted fingerprints shall not exceed a 5% error rate per fiscal year.
- All pre-populated completed cards returned to the Contractor are Cardscanned and electronically transmitted to FDLE within two-business days of receipt by the Contractor. Each late card transmission is considered an occurrence.
- The Contractor will provide a monthly report of payments made, as well as demographic data and the report will be provided by the 7<sup>th</sup> day of the month for the preceding month. The monthly report will provide differentiation between Live Scan and Cardscan payments by payment type.
- The submission of an electronic monthly report, submitted by the 7<sup>th</sup> of the month for the preceding month. The report will include:
  - Transaction activity by station of each LiveScan and Cardscan station, to include daily, weekly, 30-day and year-to-date for each station, to include whether the transaction was an initial scan or a re-scan of fingerprints. Fees paid, differentiated by LiveScan and CardScan.
  - Demographic data as required for fingerprinting, differentiated by LiveScan and Card Scan.
- The Contractor will provide an annual report for each program area regarding the number of appointments scheduled via a web-based application, as well as telephonic scheduling for each location, and the number of transactions processed for LiveScan and CardScan.

For each default on a Tier 2 Critical Work Task, the Contractor shall be liable to the Department for an amount of one thousand five hundred dollars (\$1,500.00) per business day from the occurrence to the correction of the default, as financial consequences for such delay, and not as a penalty.

### **2.E.1 Non-Critical Work Task Corrective Action Plan**

For Work Tasks identified in Section 2 that are not considered Critical Work Tasks as defined in 2.D.1, the Contractor shall submit a Corrective Action Plan to the Department ten (10) business days from initial written notification by or to the Department of any default. The Department will notify the Contractor within five (5) business days if the Corrective Action Plan is acceptable. The Department will allow five (5) business days for the Contractor to submit a clarification or revision if the plan is deemed unacceptable to the Department. Upon the Department's acceptance of the plan, the Contractor shall have, at the discretion of the Department, up to thirty (30) calendar days to implement and successfully complete the agreed upon plan. For each business day the Contractor fails to timely submit a Corrective Action Plan, the Contractor shall be liable to the Department for an amount of two hundred fifty dollars (\$250.00), as financial consequences for such delay, and not as a penalty. For each business day the Contractor

fails to correct the default according to the Corrective Action Plan, the Contractor shall be liable to the Department for an amount of two hundred fifty dollars (\$250.00), as financial consequences for such delay, and not as a penalty.

## **SECTION 3: SPECIAL CONDITIONS**

### **3.1 PROPOSAL CONTENTS**

#### **3.1.1 Technical Bid/Proposal Content – Proposal Section 1**

##### **Section 1 Tab 1 Executive Summary**

- A brief statement of the Proposer’s understanding of the work to be done;
- The names, titles, addresses (including e-mail), and telephone numbers of the individuals who are authorized to make representations on behalf of the Proposer;
- Signature of person(s) authorized to legally bind the Proposer;
- Letter of Certification, signed by the Proposer, stating that the company or firm has operated a fingerprinting business for state(s) administering a minimum of 35,000 fingerprint records per year for a minimum of five (5) consecutive years. If the Proposer is the local resident manager/representative for a nationwide company, this fact should be indicated in the certification. The local business address from which the firm operates, business telephone/cell phone number(s), and the name of a local contact person must also be included in the Proposal.
  - (a) Include Proposer’s certification as to the accuracy of the Proposal;
  - (b) Include a statement that Proposer agrees to not seek indemnification from the Department for any costs or services;
  - (c) If the Proposer’s Proposal is for goods or services of **\$1 million or more**, the Proposer shall certify that the Proposer as a company as defined in s. 287.135, F.S., is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. (See <http://www.state.gov/s/ct>). Use Attachment E.

##### **Section 1 Tab 2 Contractor Qualifications and Contractor Information**

The Proposer must provide a management plan that describes administration, management, experience, personnel, qualifications, company history, and financial information. [Proposal sections responding to Section 1, Tab 2, subsection (b) are not intended to become part of the resulting contract but will be used in evaluating the Proposal.]

- (a) Administration and Management  
Proposer must include a description of the organizational structure established and the methodology to be used to control costs, provide service reliability, and maintain schedules; as well as the means of coordination and communication between the organization and the Department.



(b) Experience and References

(b) (1) Experience

Proposer must provide documentation of previous experience in conducting services similar to the requirements of this RFP. Experience should be reflective of the Proposer's ability to perform the services requested in this RFP as found in Section 2. Documentation must include a list of states in which the Proposer has operated fingerprinting services for state licensing entities and the number of fingerprint records administered for each state for the last five (5) years. Proposers must include states where they administered a minimum of 5,000 or more fingerprint records annually. Experience should be reflective of the Proposer's ability to perform the services requested in this RFP.

(b) (2) References

The Proposal is required to submit with their Proposal, a minimum of three (3) past job experiences for services of a similar size and relevant to the requirements of this RFP. One of the three (3) may be a current job experience. The job experiences should include any fingerprint services for insurance licensing for states administering a minimum of 30,000 fingerprint records annually as well as a list of all fingerprint projects within the last three (3) years. For each project, include:

1. Project title, client organization, and project reference, with phone and email address;
2. Period of performance (initial and final). Explain any delay in project completion;
3. Contract value (initial and final). Explain any growth in contract value;
4. The degree to which the project was successful with respect to Department acceptance, success in meeting organizational goals, on-time completion of project, and on-budget delivery of project;
5. Describe any similar requirements to this RFP and correlate functions to the requirements of this RFP, as found in Section 2 of this RFP.
6. The proposer shall complete the Client Reference Survey form, Attachment D, and include it with the Proposal.

**Failure to comply will not be considered a minor irregularity and Proposals that fail to meet these mandatory minimum requirements of 3.1.1, Section 1, Subsection (a) Administration and Management and Subsection (b) Experience and References will be rejected and considered no further in the evaluation process.**

(c) Identification of Project Personnel

Proposer must provide the name and title of each individual who will be engaged in this project. Include a description of the functions and responsibilities of each person relative to the task to be performed.

Proposer must include a listing of all persons who will work on this project together with their experience and qualifications. All of Proposer's personnel assigned to this project will be subject to State approval. As part of the Minimum Qualifications, the Proposer will designate specific members of the project team considered to be essential to the services to be provided as key personnel. Key personnel will be those assigned to agreed-upon key roles. Key roles should be defined within the proposed organizational structure and fulfill the Minimum Requirement of a designated support team for the Services. The State requires that the Proposer's Contract Manager is on the designated key personnel list. State the number of Florida jobs that will be created by the Proposer in performance of the proposed Contract.

(d) Staff Information

List all staff assigned to this project, including any subcontractors. The following information must be provided for each:

- Name;
- Title;
- Specific work or role to be performed and/or services to be provided. All personnel named for key roles shall be clearly designated as such;
- Description of qualifications and relevant experience that makes proposed individual suitable for designated role on this project;
- Percentage of time to be dedicated to this project if the Proposer is selected, and the number of other projects currently assigned;
- Any additional information that indicates the individual's ability to aid the Proposer in successfully performing the work involved in this solicitation; and
- Résumé.

Subcontractors may be used. However, the Contractor will be responsible for meeting the timeframes provided regardless of delays caused by a subcontractor.

(e) Fingerprint Locations of Work.

Provide a summary of the Proposer's locations and staffing in Florida. Provide a summary of the Proposer's ability to respond to the need for local contacts from the Department and the local communities served by the Department. All staff assigned by Contractor will perform the duties outlined in the Scope of Services, section 2 above at the designated sites approved by the Department.

(f) Performance Measures.

The Contractor shall provide a simple performance measurement framework that provides the standards by which they measure their success in the following areas: customer satisfaction, operational performance, employee

qualifications and financial objectives. This section ((f) Performance Measures) will be used to evaluate only how the Contractor evaluates itself.

### Section 1 Tab 3 Identical Tie Response Preference

Whenever identical solicitation responses are received, preference shall be given to the Proposal certifying in accordance with Section 60A-1.011, Florida Administrative Code and Florida Statutes. It is optional to include an attached Identical Tie Response Form attached as **Attachment B**, if applicable to the Proposer.

### Section 1 Tab 4 Provide Proposer(s) Financial Statements

The Proposer shall include independent evidence of sufficient financial resources and stability for Proposer(s) to provide the services sought. This includes audited financial statements that include balance sheets and income statements for the past two (2) fiscal years. If the Proposer is, or has provided financial services to the State of Florida, provide information on such service. The Department retains the right to request additional data pertaining to the Contractor ability and qualifications used to accomplish all work in this RFP, as it deems necessary to ensure competent and satisfactory work. *Note: If Proposer does not have the materials requested under this Tab, or does not have all of them in the format requested, Proposer may substitute other material which Proposer believes provides as much of the same information with the same degree of reliability as possible.*

[Section 1 Tab 4 will not become part of the final Contract.]

## **3.1.2 Technical Approach and Qualifications Requirements-- Proposal Section 2**

### Section 2 Tab 1: Scope of Services

Provide a concise summarization of the services offered to meet the State's needs, the Proposer's approach to providing the services, the benefits that the State will derive from completing the project, and documentation as to why the Proposer is best qualified to perform this engagement. Identify each by number associated with each product or service identified in **Section 2.A**.

### Section 2 Tab 2: Technology Related Services, Section 2.B.

Provide a concise summarization of the products and services offered to meet the State's needs, the Proposer's approach to providing the services, the benefits that the State will derive from the Proposer's services, and documentation as to why the Proposer is best qualified to perform this engagement. Identify each by number associated with each product or service identified in **Technical Specifications/Scope of Services Section 2.B**

### **3.1.3. Pricing/Cost Proposal (THIS INFORMATION SHALL BE SUBMITTED SEPARATELY FROM ALL OTHER PROPOSAL SUBMISSION DOCUMENTS.)**

The proposal must contain a signed, separately sealed, **Price Proposal (Attachment A)**. The Proposer shall provide complete and detailed pricing information as required by Attachment A:

- Fingerprint Fee (not including FDLE and FBI Fees)
- Per fingerprint FDLE Cost
- Per fingerprint FBI Cost

### **3.1.4 MANDATORY DOCUMENTS AND REQUIREMENTS**

All Proposals received will be screened for compliance with these minimum qualifications. Any Proposal that does not demonstrate satisfaction of the minimum qualifications will not receive any further consideration. The mandatory minimum qualifications are:

1. The Proposal must be delivered timely.
2. The Proposal must include an original of the Technical Proposal and the Price/Cost Proposal. Also include five (5) paper copies of the Technical Proposal and the Price/Cost Proposal and five (5) digital copies (compact disks). {modifies PUR 1001 ¶ 3}
3. The Technical Proposal must include all mandatory requirements listed in the RFP, and respond to all requirements in Section 2, and must include all mandatory forms and attachments.
4. The Technical Proposal must include evidence of Proposer's qualifications.
5. The separately sealed Price/Cost Proposal must include the proposed price and a signature by an authorized representative of the Proposer.

Proposals shall be considered **nonresponsive if they contain disclaimers** in either a technical or price Proposal that the Proposal is for evaluation purposes only and should not be interpreted as a binding offer or commitment on the part of a Proposer. [Infinity v. DOE (and Microsoft), Case No. 011/11001662, Div. of Admin. Hearings, at 24 (June 7, 2011)]

Proposers are further reminded that conditions and specifications, which are considered mandatory requirements are expressed with the word "shall" or "must" in the description of the requirement. RFP Proposals that fail to demonstrate both willingness and ability to comply with such a condition or specification will be considered non-responsive and will be disqualified.

## **3.2 SUBMISSION INSTRUCTIONS**

### 3.2.1 Costs

Proposals shall be prepared simply and economically. The Department is not liable for any cost incurred by a Proposer in responding to this solicitation. The Proposer is required to examine carefully the contents of the solicitation and be thoroughly informed regarding all of its requirements.

### 3.2.2 Format and Copies

- (a) In responding to the requirements in each section, structure your Proposal to match the order of any sub-headings in the section as presented in the RFP, to facilitate the comparison of your offer to the agency's requirements.
- (b) Sealed Proposals must be received in the Purchasing Office at the 200 East Gaines Street, Larson Bldg., Attention: Gloriann McInnis, Purchasing Services, Tallahassee, FL 32399-0317 by the deadline listed in the Timeline in Section 1.4. All Proposals received by the deadline will be opened in the Purchasing Office at that time. Mark the Proposal package (box of binders as described below) clearly on the outside of the package with: PROPOSAL NUMBER, DATE AND TIME OF PROPOSAL OPENING mark each binder in the package as noted below. (This submission requirement replaces the electronic submission instructions in PUR 1001 ¶ 3.)
- (c) The "original" Proposal will contain the originals of any documents required to be signed as part of the proposal submission (e.g., cover letter). The original Proposal as submitted should bear the following printed information on both its outside front cover, and on its spine:
  - [Proposers exact legal name, in which name the contract would be awarded]
  - Proposal regarding RFP # \_\_\_\_\_
  - ORIGINAL, Binder \_\_ of \_\_
- (d) Include with the copies of the proposal photocopies of signed documents. Bind each copy in a 3-ring binder(s) just as the original, with a complete and exact duplicate of the original. For each copy, all sections may be contained in one binder clearly labeled at each section and tab. Each copy of the proposal should bear the following printed information on both its outside front cover, and on its spine:
  - [Proposer's name in which the contract would be awarded]
  - Proposal regarding RFP # \_\_\_\_\_
  - Copy # \_\_\_\_, Binder \_\_ of \_\_
- (d) Also, Proposer shall submit a redacted version of the Proposal as required by RFP Sec. 3.4.6 which states that if Proposer considers any portion of the documents, data or records submitted in reply to this solicitation to be confidential, trade secret or otherwise not subject to disclosure pursuant to

Chapter 119, Florida Statutes, the Florida Constitution or other authority, Proposer must also simultaneously provide the Department with a separate redacted copy of its Proposal. This redacted copy shall contain the Department's solicitation name, number, and the name of the Proposer on the cover, and shall be clearly titled "Redacted Copy."

### **3.2.3 Communications.**

Notice required by statute: Proposers to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a Proposal.

No decisions or actions shall be initiated or executed by the Proposer as a result of any discussions with any Department employees. Only communications which are in writing from the Department may be considered as duly authorized communications on behalf of the Department. During selection the Proposer, its agents and employee will not engage in any written or verbal communication with any Department employees whether or not such individual is assisting in the selection, regarding the merits of the Proposer or whether the Department should retain or select the Proposer. The Proposer will not engage in any lobbying efforts or other attempts to influence the Department or the evaluation team, in an effort to be selected. The selection period shall begin according to the Timetable in Section 1.4.

## **3.3 EVALUATION PROCESS**

Proposals shall be opened on the date and at the location indicated on the Timeline. Proposers may, but are not required to, attend. **Prices will not be read at the RFP Opening.**

### **3.3.1 Evaluation Team**

An evaluation team consisting of at least three members, appointed in writing by the Department, will evaluate the Proposals.

### **3.3.2 Determination of Conformance**

Proposals must satisfy certain mandatory minimum requirements in order to proceed into the detailed evaluation phase. All Proposals will be reviewed for compliance with these mandatory minimum requirements. Evaluators will verify that all mandatory technical requirements are met and addressed. Proposals that meet these requirements will be accepted into a detailed evaluation phase. **WARNING:** Proposals that fail to meet these mandatory minimum requirements will be rejected and considered no further in the evaluation process.

The objective of this solicitation is to elicit firm contractual offers subject to the Department's acceptance. For a proposal to be responsive the respondent must be committed to enter into a contract based on this RFP and the respondent's proposal. If a proposal contains language which withdraws or negates commitments to requirements of the RFP, or qualifies the proposal such that it is not a firm offer to contract under terms consistent with the requirements of this RFP, the submission shall be subject to being deemed nonresponsive and rejected. Respondents are cautioned to carefully proofread responses to ensure the removal of boilerplate disclaimers which have the effect of negating commitments made elsewhere in the proposal.

### 3.3.3 Technical Bid Portion of the Proposal

Each team member will evaluate their copy of the Proposal independent of the others and provide a score on each section of the Proposal, based on the evaluation criteria.

The Department may request oral presentations from any or all of the Proposers. The Purchasing Office will coordinate and conduct the presentations.

### 3.3.4 Price/Cost Proposal

The Purchasing Officer will open the Price/Cost Proposals and they will be evaluated separately.

### 3.3.5 Evaluation Criteria

The total value of points possible equals **310 points** for the Technical Proposal. Proposals will be evaluated on the following criteria that are not necessarily listed in order of relative importance. Award may be made to the Proposer with the greatest number of total points.

<b>Evaluation Criteria</b>	<b>Section</b>	<b>Maximum Points</b>
<b>2.A. Scope of Services</b>		
- Fingerprinting Process	2.A.1.	40
- Fingerprint Equipment	2.A.2	10
- Fingerprint Fees, Costs and Expenses processes	2.A.3, 2.A.4.	10
- Website Availability	2.A.5.	5
- Call Center	2.A.6.	5
- Fingerprint Locations	2.A.7., 3.1.1.	40
- Reporting	2.A.8	20
<b>Total Points for Section 2.A.</b>		<b>130</b>
<b>2.B. Technical Specifications</b>		
- Technical Plan	2.B.1.	40
- Disaster Plan	2.B.2.	10
- Project Implementation	2.B.3.	30

<b>Total Points for Section 2.B.</b>		<b>80</b>
<b>3.1 Proposal Contents – Executive Summary</b>		
- Administration and Management	3.1.1.	10
- Experience and References	3.1.1.	30
- Identification of Project Personnel	3.1.1.	10
- Staff Information	3.1.1.	10
-		
- Performance Measures	3.1.1.	30
- Financial Statements	3.1.1.	10
<b>Total Points for Section 3.1</b>		<b>100</b>
<b>Total Points for Technical Proposal</b>		<b>310</b>

COST PROPOSAL – Total value for Cost Proposal is 60 points.

Lowest Compensation base (L) proposed divided by the proposed compensation base being considered (PC) multiplied by the maximum point score available in this category. Formula:  $(L/PC) \times 60 =$  point score for this category.

### 3.3.6 Reservations

The Department reserves the right to reject any and/or all Proposals, or to waive minor discrepancies if it is in the Department’s best interest to do so. The Department may, by written notice, revise and amend the solicitation before the due date for the Proposal.

### 3.3.7 Contract

The contract shall be awarded by written notice to the responsible and responsive contractor, whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and other criteria set forth in the Request for Proposals. The Department will coordinate a contract for signature, substantially in the form attached as Attachment C, between the Department and successful Proposer, who will be the Contractor, that incorporates this solicitation and the Proposer’s Proposal as soon as possible after the posting of the notice of award on the Contractor Bid System (VBS) website, at [http://myflorida.com/apps/vbs/vbs\\_www.main\\_menu](http://myflorida.com/apps/vbs/vbs_www.main_menu).

After selection of the Contractor, the Request for Proposals (including addenda thereto, if any), the Proposal of the Contractor, and the executed Contract will constitute the entire agreement of the parties and will supersede any prior representations, commitments, conditions, or agreements between the parties. In the event of conflict among the terms and conditions of the various documents, the Contract shall prevail over the Request for Proposals and the Request for Proposals shall prevail over the terms of the Proposal. The term “Proposal” includes both the Technical and Price Proposals submitted in response hereto.

The Contract shall be substantially in the form attached as Attachment C to the RFP, with only such non-substantive changes therein as shall be necessary to the orderly administration of the program.



Modifications as noted in response to the Proposers' questions and any other Addenda to the RFP are incorporated into the RFP. The Department reserves the right to amend this Request for Proposals by an addendum prior to the date for Proposal submission. If there are any perceived inconsistencies among any of the provisions of the RFP and its attachments, Proposers shall bring these inconsistencies to the attention of the Department prior to the submission of the Proposal.

### **3.4 ADDITIONAL CONTRACT TERMS**

#### **3.4.1 Entire Contract; Order of Precedence.**

The Contract document (substantially in the form attached to the RFP as Attachment C), the Department's solicitation including attachments and addenda, and Proposer's Proposal and in that order, state all of the rights and responsibilities of, and supersede all prior oral and written communications between the parties. The Department objects to and shall not consider any terms or conditions submitted by a Proposer, including any appearing in documents attached as part of a Proposer's Proposal, which are inconsistent with or contrary to the requirements, terms, or conditions of the RFP. In submitting its Proposal, a Proposer agrees that any such inconsistent or contrary terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect.

#### **3.4.2 Renewal and Termination**

The term of the Contract is three (3) years, beginning upon contract execution and is subject to renewals. By mutual agreement of the parties, and pursuant to section 287.057(13), Florida Statutes, the Department may renew the Contract for three (3), one (1)- year periods. The renewal shall be contingent upon availability of funds and satisfactory performance by the Contractor. The renewal price is set forth in Attachment A. No other costs for the renewal may be charged. Any renewal is subject to the same terms and conditions as the original contract. The Department shall have the right to terminate or suspend the Contract, by providing the Contractor thirty (30) calendar days written notice. The Contractor shall not perform any Services after it receives the notice of termination, except as necessary to complete the transition or continued portion of the Contract, if any. Contractor shall submit to the Department within 90 calendar days of termination a request for payment of completed Services. Requests submitted later than 90 calendar days after termination will not be honored and will be returned unpaid.

#### **3.4.3 Scrutinized Companies Certification.**

Florida law requires a clause in a contract (see Sec. 8 (d) of the form of Contract, Attachment C) for goods or services **of \$1 million or more** with for-profit companies, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities. Before the company enters into or renews a contract with an agency or governmental entity for goods or services of \$1 million or more, the Contractor must certify that the company is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy

Sector List, or engaged in business operations in Cuba or Syria. (See <http://www.state.gov/s/ct.>)

#### **3.4.4 Transportation and Delivery.**

Unless otherwise specified herein, the Contractor must be able to assume all obligations and provide all services specified in the contract upon initiating the contract. Evidence that all computer systems, data transfers, electronic submissions, application of business rules, have been tested and are functioning correctly must be demonstrated to the satisfaction of the Department by the Contractor no later than fifteen (15) days prior to contract initiation.

#### **3.4.5 Acceptance. (Contract Sec. 5 modifies PUR 1000 ¶13)**

All deliverables will be sent to the Bureau's Contract Manager from the Contractor. The Department will accept each Deliverable when it meets the performance measures and requirements of the Contract. The Department shall have a maximum period of twenty (20) business days after delivery of a deliverable to verify that the deliverable meets the Contract requirements. The acceptance review will identify any nonconformities which the Department will provide in writing to the Contractor. Contractor shall correct nonconformities within five (5) business days or proceed on another mutually acceptable basis as set forth in writing. The Department shall then have five business days upon redelivery of the Deliverable to confirm the nonconformity has been corrected and report any continuing nonconformity. The Statement of Work contains the financial consequences for nonperformance of a deliverable.

**Dispute Resolution.** [see Contract Sec. 18(b)]

**Insurance.** [see Contract Sec. 7.]

#### **3.4.6 Public Records.**

(a) **Temporarily Confidential Records:** Sealed bids, proposals, or replies filed in response to this competitive solicitation are temporarily exempt from public record requests. Pursuant to section (s.) 119.071(1)(b), Florida Statutes (F.S.), these Responses are exempt only until the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier. Notwithstanding any contractual provisions to the contrary, the Department is obligated to make available for inspection or copying any non-exempt public record pursuant to the requirements of chapter 119, Florida Statutes, the Public Records Act, and Article I, s. 24 of the State Constitution (collectively Public Records Law). As such, upon receipt of a request to inspect or copy a Response to this competitive solicitation, the Department will make Responses to this competitive solicitation that are no longer exempt pursuant to s. 119.071(1)(b), F.S., available for inspection or copying upon receipt of a public record request as required by Public Records Law.

- (b) **Confidential Trade Secret Information:** The Department does not solicit or desire a Respondent's trade secrets to be included as part of a Response to this procurement. Pursuant to s. 812.081, F.S., a person who claims that information is a trade secret must take measures to protect such information and to prevent it from becoming generally available. As such, if Respondent includes in its Response information that Respondent considers to be a trade secret that meets the definition provided in s. 812.081, F.S., Respondent shall file a notice of trade secret with the Department that puts the Department on notice that Respondent has included trade secret information in its Response. Furthermore, if a Respondent reserves the right to assert that a portion of its response is a trade secret, Respondent shall provide the Department with an additional copy of its Response that has been redacted to conceal only that information that Respondent claims to be a confidential trade secret meeting the definition of a trade secret as provided in s. 812.081, F.S., and is clearly identified as having had trade secret information redacted that is labeled "CONFIDENTIAL TRADE SECRETS."
- (c) **Other Confidential Records:** In the event the Department requests sensitive data processing software documentation, technology security systems and procedures, and other information deemed confidential or exempt from the Florida Public Records Act, then the Respondent shall place such information in a sealed separate envelope provide the Department with an additional copy of its Response that has been redacted to conceal only that information that the Respondent claims to be confidential.
- (d) If a public record request is made for a Response to this competitive solicitation, the Department will notify the Respondent of such request if Respondent has provided the Department with a notice of trade secret. If the Department receives a public records request related to the Response, the Respondent shall be solely responsible for taking whatever action it deems appropriate to legally protect its claim of exemption from the public records law. The Contractor should be prepared to defend against their release if the Contractor decides that such documents, data or information should not be disclosed in response to a public record request. The Department will not provide access to the confidential information of the Contractor, including but not limited to information identified by the Contractor as confidential pursuant to s. 812.081, F.S., to any other party without first providing notice to the Contractor. The Contractor shall notify the Department in writing within ten (10) business days of receipt of such notice from the Department, whether it intends to defend the confidentiality of such public records. The Contractor shall file an action to prevent disclosure within an additional three business days. If not filed within such time, the Contractor is deemed to have released the Department from liability for disclosure of the applicable public records. Any prospective vendor acknowledges that the protection afforded by s. 815.045, F.S., is incomplete, and it is hereby agreed that no right or remedy for damages arises from any disclosure. (Modifies PUR 1000 ¶33 and PUR

1001 ¶19). The Respondent shall retain such records for the longer of three years after the expiration of the Contract or the period required by the General Records Schedules maintained by the Florida Department of State (available at: [http://dhis.dos.state.fl.us/recordsmgmt/gen\\_records\\_schedules.cfm](http://dhis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm)).

#### **3.4.7 Modification of Terms.**

Any terms and conditions that the Proposer provides with or before or after delivery that attempt to modify the Contract or add additional restrictions of usage, license conditions, or requirements have no effect and are not enforceable under the Contract. (modifies PUR 1000 ¶42) Any proposed agreement submitted in the Proposal shall not contain any provisions, unless such provisions are expressly negated in the Proposal, which:

- (a) are inconsistent with Florida law,
- (b) exclude, prohibit, or negate other contract documents,
- (c) subject the State of Florida to the jurisdiction of another state, or
- (d) provide that the State will indemnify the Proposer or any other person.

All work materials developed or provided by Contractor under this contract and any prior agreement between the parties shall be deemed to be work made for hire and owned exclusively by the State of Florida, Department of Financial Services.

All elements of custom software developed within the scope of the Contract shall be exclusively owned by the Department of Financial Services and shall be considered works made for hire for the Department of Financial Services.

Proposer agrees to provide to the Department as part of the annual maintenance service hereunder all revisions, updates, improvements, modifications and enhancements ("Update") to each licensed software program ("Program") and/or item of equipment. An Update, once incorporated by the Department into the Department's System, shall be considered part of the System for all purposes hereunder and shall not cause a loss of existing functionality. All such Updates will be provided free of charge. A product providing new, improved, or altered service performance which provides the same functionality as any equipment or Program provided hereunder shall be deemed an Update. Provision of maintenance hereunder shall not be contingent on Department upgrades or acceptance of Updates.

#### **3.4.8 MyFloridaMarketPlace.**

Unless exempted under Rule 60A-1.030-.032, each Contractor doing business with the State of Florida shall submit reports and be assessed a Transaction Fee of one percent (1.0%) on its payments under a Contract, which must be remitted within 40 calendar days after receipt of payment for which such fees are due or the Contractor shall pay interest at the rate established under section 55.03(1), Florida Statutes, on the unpaid balance from the expiration of the 40-day period until the fees are remitted. (see PUR 1000 ¶14).

#### **3.4.9 Electronic Accessibility.**

If applicable, Section 508 compliance information on the supplies and services in this Contract are available on a website indicated by the Proposer in the Proposal or resulting

Contract. The Electronic and Information Technology standard can be found at: <http://www.section508.gov/>.

Contractor shall ensure that, as to its products and services and those it develops for the Department, the electronic and information technology accessibility requirements of Section 508 of the Rehabilitation Act Amendments, 29 USC Sec. 794 are met.

#### **3.4.10 Background and employment eligibility verification**

*[The Governor's Executive Order 11-116, on Verification of Employment Status, requires the use of E-Verify for new hires by the Contractor. A Special Condition to the solicitation/contract to address this follows].*

##### (a) E-Verify Employment Verification

1. Under the Governor's Executive Order 11-116, the Contractor must participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" with the federal Department of Homeland Security governing the program if any new employees are hired to work on this Contract during the term of the Contract. The Contractor agrees to provide to the Department, within thirty days of hiring new employees to work on this Contract, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen, which contains proof of enrollment in the E-Verify Program. Information on "E-Verify" is available at the following website: [http://www.dhs.gov/files/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/files/programs/gc_1185221678150.shtm)
2. The Contractor further agrees that it will require each subcontractor that performs work under this contract to enroll and participate in the E-Verify Program if the subcontractor hires new employees during the term of this Contract. The Contractor shall include this provision in any subcontract and obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the Department upon request.
3. Compliance with the terms of this Employment Eligibility Verification provision will be an express condition of the Contract and the Department may treat a failure to comply as a material breach of the Contract.

(b) Responses must include an attestation that a background check including fingerprinting has been or will be conducted on the team members who will work on site at DFS. Background checks are to be obtained by the Contractor online from FDLE at <http://www.fdle.state.fl.us/CriminalHistory>. A copy of the check is to be provided upon contract Manager request before the requested staff may work under the Contract. The Department reserves the right to reject proposed personnel based on background check information. The Contractor is responsible for payment of, and retaining records relating to, employee security checks, which records are exempt from Chapter 119, F.S.

### **3.4.11 Limitation of Liability.**

(a) The Indemnification provisions of this RFP and its incorporated PUR 1000-19 shall apply with the following clarifications, except that each party shall be responsible for its own attorney fees. The procedures set forth below shall apply to all indemnity obligations under this Contract. (except as otherwise expressly provided below):

1. The Contractor shall be fully liable for the actions of its agents, employees, partners, or Subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to:
  - a) Any claim by, on behalf of, or pertaining to a Contractor Subcontractor or Contractor personnel in relation to the Contract or the Services. In the case of a claim by employees of Contractor (or of any of its Subcontractors), Contractor's indemnification of the State and Customers will be to the same extent as if the claim was made by a person who is not an employee of Contractor (or its Subcontractor) – i.e., the Contractor's indemnification obligations to the will not be subject to any limitation of the Contractor's liability to the person claiming injury under workers' compensation or similar Laws;
  - b) Any claim that, if true, would constitute a breach of the Contractor's obligations with respect to any Confidential Information or data security;
  - c) Any claim that any Personal Information (as defined in Sec. 817. 5681, F. S.) was misused or improperly disclosed due to any act or omission of the Contractor (or any entity or person for which the Contractor is responsible);
  - d) Any claim that, if true, would arise from or be attributable to a breach of Contractor's obligations to comply with Laws;
  - e) Any claim that, if true, would arise from or be attributable to a breach of the Contractor's warranties regarding non-infringement of Deliverables;
  - f) Any claim that, if true, would arise from or be attributable to fraud, theft, or embezzlement by any Contractor (or Subcontractor) personnel;
  - g) Any claim that, if true, would arise from or be attributable to an intentional tort, willful misconduct (including intentional breach of contract), unlawful conduct, or gross negligence of the Contractor (or any entity or person for which the Contractor is responsible);

- h) Personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Contractor, its agents, employees, partners, or Subcontractors,
2. However, the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the.

(b) Notwithstanding anything to the contrary, nothing in this section will be construed to impose any limitation on compliance with Rule 60A-1.006 (3), F.A. C.

*Security and Confidentiality. See contract Sec. 6*

## Part II. SUPPLEMENTAL SPECIAL CONDITIONS

### **3.4.12 Financing.**

Section 287.063, Florida Statutes, requires Chief Financial Officer approval for any lease or installment-purchase. (modifies PUR 1000 ¶39).

### **3.4.13 Jury Trial.**

“The Department does not waive its right to a trial before a jury.”

### **3.4.14 Duty of Continuing Disclosure of Legal Proceedings.**

Provide a statement fully describing any investigatory or regulatory action, that has been undertaken and/or filed against your firm or any of your affiliated subcontractors (that will be associated with performing any of the duties or responsibilities contemplated by RFP), in the last three years. Additionally, please describe any litigation that has been filed against your firm or such subcontractors. If an action has been filed, please identify the court, administrative tribunal, or agency before which the action was instituted, the applicable case or file number, and the status or disposition for such reported action. If no litigation or regulatory action has been taken against your firm or subcontractors, provide a statement to that effect.

A regulatory investigation, dispute, action, or other litigation shall be a basis for rejection of a reply if the Department determines that such a circumstance poses any risk that the Proposer may be compromised in its ability to perform the services sought in the RFP, or would tend to undermine the public trust, or would cause a lack of confidence in the propriety of the Proposer, or would otherwise result in a perceived detriment to the State.

**Actual Damages:**

Failure to maintain security that results in certain data release will subject the Contractor to the sanctions for failure to comply with section 817.5681, F.S. together with any direct costs to the Department resulting from such noncompliance.

#### **3.4.18 Audit Requirements.**

The Department and any other agency of the State of Florida with pre-audit and post-audit responsibility shall have reasonable access to certain records and facilities used by the contractor for the purpose of performance evaluation and audit in accordance with State requirements. The term "reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

#### **3.4.19 Data Protection.**

(a) No Department data or information will be transferred or stored offshore or out of the United States of America.

(b) Access to Department data shall only be available to approved and authorized staff, including remote/offshore personnel, that have a legitimate business need. If that need changes, then access shall be removed promptly. Contractor shall encrypt all data transmissions. Remote data access must be provided via a trusted method such as SSL, TLS, SSH, VPN, IPsec or a comparable protocol approved by the Department.

(c) Contractor agrees to protect, indemnify, defend and hold harmless the Department from and against any and all costs, claims, demands, damages, losses and liabilities arising from or in any way related to Contractor's breach of data security or the negligent acts or omissions of Contractor related to this subsection.

(d) All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Department. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, Rule Chapter 71A-1, security procedures, business operations information, or commercial proprietary information in the possession of the State or the Department.

#### **3.4.20 No Advertising or Endorsements.**

The Contractor's services to the Department may be generally stated and described in the Contractor's professional resume. The Contractor may not give the impression in any event or manner, that the Department recommends or endorses the Contractor.

#### **3.4.21 Export Control.**

Contractor certifies that by entering into this contract, it is, and during the term will ensure it remains, in compliance with the U.S. export control laws. Before the company enters into or renews a contract with an agency or governmental entity for goods or



services of \$1 million or more, Contractor certifies that the company is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. (See <http://www.state.gov/s/ct> )

#### **3.4.22 Conflict of Interest.**

During the term of the Contract, Contractor shall not knowingly employ, subcontract with, or sub-grant to any person (including any non-governmental entity in which such person has an employment or other material interest as defined by section 112.312 (15), Florida Statutes) who is employed by the State or who has participated in the performance or procurement of the Contract, except as provided in section 112.3185, Florida Statutes.

#### **3.4.23 Substitutions.**

Price proposals and acceptance will be limited to the items and services required by the specifications in this RFP. Proposer may propose substitute items or services for any specifications in this RFP. These items or services may be accepted at the option of the Department, provided there is equivalent performance with economic benefits or significantly enhanced performance.

Minimum Qualifications for Acceptance of Substitutions:

- The substitute item shall meet or exceed the applicable requirements and specifications set forth in this RFP.
- Any substitute item shall be compatible with existing deliverable at the time the substitute is proposed for use.
- The substitute item or service shall have the capacity and performance characteristics equal to or better than those of the item it is to replace.
- The substitute item or service shall offer the same or increased functionality as the item it is to replace.
- The substituted item must be approved, in advance, by the Department.
- With any commodity offered as an equivalent, the Proposer must certify that it has consulted with the manufacturer and can represent it is not scheduled to be discontinued by the manufacturer within the next year; and if the manufacturer does discontinue the commodity, the Proposer shall certify that it will replace such part at no cost to the Department.

#### **3.4.24 Force Majeure**

In addition to the Force Majeure provisions of PUR 1000, the following applies: The Contractor will promptly notify the Department upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any Services. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform the Department of the steps the Contractor is taking or will take to do so, and the projected

actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify the Department and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department's delay.

**ATTACHMENT A**  
**Price Proposal**

Column 1	Column 2	Column 3	Column 4	Column 5
Initial Contract Period	Renewal Option Year One (1)	Renewal Option Year Two (2)	Renewal Option Year Three (3)	**Average Total (Columns 1-4)
____per fingerprint (not including FDLE and FBI fees)	____per fingerprint (not including FDLE and FBI fees)	____per fingerprint (not including FDLE and FBI fees)	____per fingerprint (not including FDLE and FBI fees)	____per fingerprint (not including FDLE and FBI fees)

**\*\*Figure will be used for basis of awarding cost Points.**

The Contractor will be responsible for the prices listed in all of the columns.

The applicants will provide all compensation due to the Contractor for all services identified in this RFP, the Contractor’s Response and the Contract. All of the Contractor’s costs specified in this RFP and the Proposer’s proposal must be included in the costs identified on this attachment.

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same materials, supplies or equipment, or services and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this Proposal and certify that I am authorized to sign this Proposal for the Proposer and that the Proposer is in compliance with all requirements of the RFP, including but not limited to, certification requirements.

PROPOSER NAME: \_\_\_\_\_  
(Company)

PROPOSER ADDRESS: \_\_\_\_\_

(City/State/Zip) \_\_\_\_\_

PROPOSER PHONE: \_\_\_\_\_

PROPOSER E-MAIL CONTACT: \_\_\_\_\_

AUTHORIZED REPRESENTATIVE:  
(Printed) \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ATTACHMENT B**  
**Identical Tie Response Certification**

In the event of identical tie Proposals, preference shall be given to the Proposer who (check the applicable block) certifies one or more of the following:

- \_\_\_\_\_A. The response is from a certified minority-owned firm or company;
- \_\_\_\_\_B. The response is from a veteran-owned business certified according to Section 295.187, F.S.
- \_\_\_\_\_C. The response is from a Florida-domiciled entity
- \_\_\_\_\_D. The commodities are manufactured, grown, or produced within this state;
- \_\_\_\_\_E. Foreign manufacturer with a factory in the State employing over 200 employees working in the State.
- \_\_\_\_\_F. Businesses with drug-free workplace programs. Whenever two (2) or more solicitation Responses which are equal with respect to price, quality and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a solicitation Response received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie solicitation Responses will be followed if none of the tied Proposers have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under solicitation a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees, as a condition of working on the commodities or contractual services that are under contract, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

I certify that this firm complies fully with the above-selected requirements. (If item E above is selected, subsections "1" through "6" have been met.)

Contractor's Name: \_\_\_\_\_  
Authorized Signature: \_\_\_\_\_

## ATTACHMENT C

### CONTRACT

between the Department of Financial Services and [Insert contractor's name]

THIS CONTRACT ("Contract") is entered into by and between the State of Florida, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0318 ("Department") or its successor, and \_\_\_\_\_ ("Contractor"), effective as of the last date signed below.

WHEREAS, the Department has determined that it is in need of certain services as described herein for the administration of an Automated Fingerprint-Based Applicant Processing System (AFAPS) that will accommodate Florida resident and nonresident insurance agent licensing applicants through electronic Livescan stations, as well as fingerprint Cardscan stations to accommodate all paper card submissions for the purpose of forwarding fingerprint records electronically to the FDLE for background checks; and

WHEREAS, the Contractor, as an independent contractor of the Department, has the expertise and ability to faithfully perform such services; and

WHEREAS, as part of the determination of eligibility for licensure to insure that only qualified individuals service the insurance-buying public of Florida, the Department may not approve an application for licensure for agents, adjusters and other insurance-related representatives if an applicant's fingerprints have not been submitted.

NOW THEREFORE, in consideration of the services to be performed and payments to be made, together with the mutual covenants and conditions hereinafter set forth, the parties agree as follows:

#### **1. Services and Deliverables.**

The Contractor agrees to render the services or other units of deliverables as set forth in the Contractor's accepted proposal responding to the Department's Request for Proposals (RFP) for services, RFP # DFS AA RFP 12/13-01 and its Attachments. The Contractor's performance shall be subject to all the terms, conditions, and understandings set forth in said RFP and the attachments to the RFP and PUR 1000 and 1001 incorporated by reference into the RFP, copies of which are attached hereto.

#### **2. Delivery Schedule.**

The services or other units of deliverables specified in Paragraph 1 above shall be delivered or otherwise rendered on behalf of the Department in accordance with the schedule in the Contractor's accepted proposal and consistent with the RFP. The Contractor's performance shall be subject to all the terms, conditions, and understandings set forth in said RFP and the attachments to the RFP.

#### **3. Term of Contract.**

The term of the Contract is three (3) years, beginning upon contract execution and is subject to renewals. By mutual agreement of the parties, and pursuant to section

287.057(13), Florida Statutes, the Department may renew the Contract for three (3) additional one (1) year terms. The renewal shall be contingent upon availability of funds and satisfactory performance by the Contractor. The renewal price is set forth in Attachment \_\_\_\_\_. No other costs for the renewal may be charged. Any renewal is subject to the same terms and conditions as the original contract.

The Department shall have the right to unilaterally terminate or suspend the Contract, by providing the Contractor thirty (30) calendar days written notice.

#### **4. Payment.**

(a) Subject to the terms and conditions established by this Contract and the billing procedures established by the Department, the Department agrees to pay the Contractor for services rendered.

(b) Contractor Rights. Contractors providing goods and services to an agency should be aware of the following time frames. Upon receipt, an agency has five (5) business days to inspect and approve the goods and services, unless the Proposal specifications, purchase orders or Contract specifies otherwise. An agency has 20 calendar days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 calendar days are measured from the date the invoice is received after the goods or services are received, inspected and approved. The Department is to approve the invoice in the state financial system within 20 calendar days.

If a payment is not available within 40 calendar days, a separate interest penalty, computed at the rate determined by the State of Florida Chief Financial Officer pursuant to section 215.422, Florida Statutes, will be due and payable, in addition to the invoice amount, to the Contractor. To obtain the applicable quarterly interest rate, please refer to <http://www.myfloridacfo.com/aadir/interest.htm>. Invoices returned to a Contractor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the State agency with the proper tax payer identification information documentation to be submitted before the prompt payment standards are to be applied. Interest penalties of less than one (1) dollar will not be enforced unless the Contractor requests payment.

A Contractor Ombudsman has been established with the Department of Financial Services. The duties of this individual include acting as an advocate for Contractors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Contractor Ombudsman may be reached at (850) 413-5516.

(c) Taxes. The Department is exempted from payment of Florida state sales and use taxes and Federal Excise Tax. The Contractor, however, shall not be exempted from paying Florida state sales and use taxes to the appropriate governmental agencies or for payment by the Contractor to suppliers for taxes on materials used to fulfill its contractual obligations with the Department. The Contractor shall not use the Department's exemption number in securing such materials. The Contractor shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this

Contract. The Contractor shall provide the Department its taxpayer identification number upon request.

(d) Expenses. The Contract is a fixed price contract with invoicing after approval of the final deliverable, and no separate expenses or travel will be paid.

(e) Payment Processing. All charges for services rendered or for reimbursement of expenses authorized by the Department in accordance with Paragraphs 3 and 4 shall be submitted to the Department in sufficient detail for a proper pre-audit and post-audit to be performed. All payments for professional services and authorized expenses, including travel expenses, will be paid to the Contractor only upon the timely and satisfactory completion of all services and other units of deliverable such as reports, findings and drafts, which are required by Paragraphs 1 and 2 above and upon the written acceptance of said services and units of deliverables such as reports, findings and drafts by the Department's designated contract manager. Interim payments may be made by the Department at its discretion under extenuating circumstances if the completion of services and other units of deliverables to date have first been accepted in writing by the Department's contract manager.

(f) Contingency. If the terms of this Contract extend beyond the current fiscal year, the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

## **5. Acceptance.**

All of Contractor's Deliverables related to these commodities or services shall be submitted to the Department's contract manager for review and approval. The Department's approval and inspection of Contractor's services shall require no longer than five (5) business days from date of delivery of services, and fifteen (15) business days for delivery of documentary deliverables such as reports and procedures. The Department reserves the right to reject deliverables as outlined in the Scope of Work as incomplete, inadequate or unacceptable due in whole or in part to Contractor's lack of satisfactory performance under the terms of this Contract. The Department, at its option, may allow additional time within which Contractor may remedy the objections noted by the Department and the Department may, after having given Contractor a reasonable opportunity to complete, make adequate or acceptable said deliverables, including but not limited to reports, declare this Contract to be in default. All status reports must be submitted timely showing tasks or activities worked on, attesting to the level of services provided, hours spent on each task/activity, and upcoming major tasks or activities. Failure to use the appropriate technical requirements as identified in the Scope of Work will result in automatic task rejection and may not be invoiced or paid until correction of the task. Failure to complete the required duties as outlined in the Scope of Work may result in the rejection of the invoice. Notwithstanding any provisions to the contrary, written acceptance of a particular deliverable does not foreclose the Department's remedies in the event those performance standards that cannot be readily measured at the time of delivery are not met.

**6. Information and Data Security and Confidentiality.**

(a) Contractor, its employees, subcontractors and agents shall comply with all security procedures of the Department in performance of this Contract. The Contractor shall provide immediate notice to the Department in the event it becomes aware of any security breach and any unauthorized transmission of State data or of any allegation or suspected violation of security procedures of the Department. Except as required by law or legal process and after notice to the Department, Contractor shall not divulge to third parties any confidential information obtained by Contractor or its employees, subcontractors or agents in the course of performing the services. Contractor shall not be required to keep confidential information that is publicly available through no fault of Contractor, material that Contractor developed independently without relying on the State's confidential information, or information that is otherwise obtainable under state law as a public record.

(b) Loss of Data. In the event of loss of any State data or record where such loss is due to the negligence of Contractor or any of its subcontractors or agents, Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Department at Contractor's sole expense, in addition to any other damages the Department may be entitled to by law or the Contract. Further, failure to maintain security that results in certain data release will subject the Contractor to the sanctions for failure to comply with section 817.5681, F.S., together with any costs of the Department a breach of security.

(c) Data Protection. No DFS data or information will be transferred or stored offshore or out of the United States of America.

Access to DFS data shall only be available to approved and authorized staff, including remote/offshore personnel, that have a legitimate business need. If that need changes, then access shall be removed promptly. Contractor shall encrypt all data transmissions. Remote data access must be provided via a trusted method such as SSL, TLS, SSH, VPN, IPsec or a comparable protocol approved by the Department.

Contractor agrees to protect, indemnify, defend and hold harmless the Department from and against any and all costs, claims, demands, damages, losses and liabilities arising from or in any way related to Contractor's breach of data security or the negligent acts or omissions of Contractor related to this subsection.

All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Department. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or the Department.

**7. Insurance.**



During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. At a minimum, this includes the following types of insurance for anyone directly or indirectly employed by Contractor and the amount of such Insurance shall be the minimum limits as follows, unless otherwise approved by the Contract Manager:

- (a) Commercial general liability coverage, bodily injury, property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
- (b) Automobile liability coverage, bodily injury, property damage: \$1,000,000 Combined Single Limits. Insuring clause for both bodily injury and property damage shall be amended to provide coverage on an occurrence basis.
- (c) Workers' compensation and employer's liability insurance covering all employees engaged in any Contract work, in accordance with Chapter 440 of the Florida Statutes.

Such coverage may be reduced with the consent of the Contract Manager since certain subcontractors have potentially less exposure in liability than other subcontractors. Except as agreed in a separate writing, no self-insurance coverage shall be acceptable unless Contractor is licensed or authorized to self-insure for a particular coverage listed above in the State of Florida, or is an insured member of a self-insurance group that is licensed to self-insure in the State of Florida.

## **8. Termination.**

- (a) The Department may, in its sole discretion, terminate the Contract at any time by giving 30 days written notice to the Contractor.
- (b) All services performed by the Contractor prior to the termination date of this Contract shall be professionally serviced to conclusion in accordance with the requirements of the Contract. Should the Contractor fail to perform all services under the Contract, the Contractor shall be liable to the Department for any fees or expenses that the Department may incur in securing a substitute provider to assume completion of those services.
- (c) As provided in section 287.058, Florida Statutes, the Department may terminate the Contract immediately in the event that the Department requests in writing that the Contractor allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, which are made or received by the Contractor in conjunction with the Contract, and the Contractor refuses to allow such access. However, nothing herein is intended to expand the scope or applicability of Chapter 119, Florida Statutes, to the Contractor. The Contractor shall not be required to disclose to the public any proprietary copyrighted trade secrets or other materials protected by law as pursuant to section 119.07, Florida Statutes.
- (d) If at any time the Contract is canceled, terminated, or expires, and a contract is subsequently executed with a firm other than the Contractor, the Contractor has the affirmative obligation to assist in the smooth transition of Contract services to the subsequent contractor. The Contractor agrees to provide, for up to six (6) months after

termination or until the subsequent provider is fully operational, whichever occurs first, all reasonable termination assistance requested by the Department to facilitate the orderly transfer of such services to the Department or its designees. Six months prior to termination, the Contractor will provide the Department an explanation of the functional equivalent of the technical requirements of any services or proprietary products used to carry out the contract and all documentation supporting a description of the technical and service requirements. Such termination assistance shall be at no additional charge to the Department if the termination is due to Contractor default and otherwise shall not exceed software maintenance rates or other direct expenses pre-approved by the Department's Contract Manager.

Before the end of the contract period, the Contractor shall be responsible for transferring the IT operational and maintenance services back to the Department or successor contractor including a contingency transition plan, which will include at a minimum training, transfer of data and transition period error correction.

(e) If the Contractor defaults in the performance of any covenant or obligation contained in the Contract, including without limitation the minimum requirements contained in the Scope of Work, or in the event of any material breach of any provision of the Contract by the Contractor, the Department may, in its sole discretion, provide notice and an opportunity to cure the default rather than exercise the remedy of termination. If the default or breach is not cured within thirty (30) calendar days after written notice is given to the Contractor specifying the nature of the alleged default or breach, then the Department, upon giving written notice to the Contractor, shall have the right to terminate the Contract effective as of the date of receipt of the default notice.

## **9. Events of Default.**

Provided such failure is not the fault of the Department or outside the reasonable control of the Contractor, the following events, acts, or omissions, shall include but are not limited to, events of default:

(a) Failure to pay any and all entities, individuals, and the like furnishing labor or materials, or failure to make payment to any other entities as required herein in connection with the Contract;

(b) Failure to complete and maintain, within the timeframes specified between the Department and the Contractor, the applicable system installation, ongoing performance, maintenance, and provision of Services;

(c) The commitment of any material breach of this Contract by the Contractor, failure to timely deliver a material deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Contract;

(d) Employment of an unauthorized alien in the performance of the work;

(e) One or more of the following circumstances, uncorrected for more than thirty (30) calendar days unless within the specified thirty (30) day period, the Contractor (including its receiver or trustee in bankruptcy) provides to the Department adequate assurances, reasonably acceptable to the Department, of its continuing ability and willingness to fulfill its obligations under the Contract:

- (1) Entry of an order for relief under Title 11 of the United States Code;
- (2) The making by the Contractor of a general assignment for the benefit of creditors;
- (3) The appointment of a general receiver or trustee in bankruptcy of the Contractor's business or property;
- (4) An action by the Contractor under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation;
- (5) Entry of an order revoking the certificate of authority granted to the Contractor by the State or other licensing authority;

(f) The Contractor makes or has made an intentional material misrepresentation or omission in any materials provided to the Department or fails to maintain the required insurance.

#### **10. Liability and Indemnification**

In addition to the provisions in PUR 1000 regarding liability, the following provisions apply: No provision in this Contract shall require the Department to hold harmless or indemnify the Contractor, insure or assume liability for the Contractor's negligence, waive the Department's sovereign immunity under the laws of Florida, or otherwise impose liability on the Department for which it would not otherwise be responsible. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this contract.

#### **11. Damages for Delay.**

Contractor acknowledges that its failure to meet an agreed upon deadline for delivery of services will damage the Department but that by their nature such damages are impossible to ascertain presently and will be difficult to ascertain in the future. Accordingly, the parties agree upon a reasonable amount of liquidated damages which are not intended to be a penalty and are solely intended to compensate for unknown and unascertainable damages. Accordingly liquidated damages shall be assessed on the Contractor according to RFP section 2D if the Contractor fails to complete agreed upon work after expiration of the time allowed by the Contract, subject to the force majeure provisions of the Contract. Allowing completion after the time allowed shall not act as a waiver of liquidated damages.

Nothing in this section shall be construed to make the Contractor liable for delays that are beyond its reasonable control. Nothing in this section shall limit the Department's right to pursue its remedies for other types of damages.

**12. State property.**

Title to all property furnished by the Department under this Contract shall remain in the Department, and Contractor shall surrender to the Department all property of the Department prior to settlement upon completion, termination, or cancellation. All state data shall become and remain the Department's property. All work materials developed or provided by Contractor under this Contract and any prior agreement between the parties shall be deemed to be work made for hire and owned exclusively by the State of Florida, Department of Financial Services. Upon completion, termination, or cancellation, the Contractor will provide all data in a standard industry format or format to be designated by the Department.

**13. Contract Modification.**

This Contract may be amended only by a written agreement between both parties subject to the provisions of Chapter 287, Florida Statutes.

**14. Nonexclusive Contract.**

This procurement will not result in an exclusive license to provide the services described in the RFP or the resulting contract. The Department may, without limitation and without recourse by the Contractor, contract with other Contractors to provide the same or similar services.

**15. Statutory Notices.**

The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. Such violation shall be cause for unilateral cancellation of this Contract. An entity or affiliate who has been placed on the public entity crimes list or the discriminatory contractor list may not submit a Proposal on a contract to provide any goods or services to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity pursuant to limitations under Chapter 287, Florida Statutes.

**16. Compliance with Federal, State and Local Laws.**

Contractor and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, worker's compensation, licenses and registration requirements.

By signing this Contract, the Contractor certifies that the company is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or engaged in business operations in Cuba or Syria. (See <http://www.state.gov/s/ct>.) As provided in section 287.135, Florida Statutes, the Department may at its option terminate the Contract immediately in the event the Contractor, as a company as defined in such statute, is found to have submitted a false certification as provided under s. 287.135 (5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with

Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.

**17. Background and employment eligibility verification.**

The Provider is responsible for payment of costs if any, and retaining records relating to, employment eligibility verification, which records are exempt from Chapter 119, F.S., which verification requires the following:

(a) Under the Governor's Executive Order 11-116, the Contractor must participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" with the federal Department of Homeland Security governing the program if any new employees are hired to work on this Contract during the term of the Contract. The Contractor agrees to provide to the Department, within thirty days of hiring new employees to work on this Contract, documentation of such enrollment in the form of a copy of the E-Verify "Edit Company Profile" screen, which contains proof of enrollment in the E-Verify Program. Information on "E-Verify" is available at the following website:

<http://www.dhs.gov/files/programs/gc%201185221678150.shtm#1>

(b) The Contractor further agrees that it will require each subcontractor that performs work under this contract to enroll and participate in the E-Verify Program if the subcontractor hires new employees during the term of this Contract. The Contractor shall include this provision in any subcontract and obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the Department upon request.

(c) Compliance with the terms of this Employment Eligibility Verification provision will be an express condition of the contract and the Department may treat a failure to comply as a material breach of the contract.

**18. Miscellaneous.**

(a) This Contract, and any referenced or attached addendum embodies the entire agreement of the parties. There are no other provisions, terms, conditions, or obligations. This Contract supersedes all previous oral or written communications, representations or agreements on this subject. In any conflict between this Contract and any referenced or attached addendum, the terms and conditions of this Contract shall take precedence and govern. Acceptance of service or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of any proposed modification to terms and conditions.

(b) Any dispute concerning performance of the Contract shall be decided by the Department's designated Contract Manager, who shall reduce the decision to writing and send a copy to the Contractor at a previously provided address. In the event a party is dissatisfied with the dispute resolution decision, jurisdiction for any dispute arising under

the terms of the Contract will be in the courts of the State of Florida, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Contract.

(c) The laws of the State of Florida and the Department's rules govern this Contract.

(d) The Contractor agrees that no funds received by it under this Contract will be expended for the purpose of lobbying the Legislature or a state agency pursuant to section 216.347, Florida Statutes, except that pursuant to the requirements of section 287.058(6), Florida Statutes, during the term of any executed contract between the Contractor and the state, the Contractor may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that contract.

(e) The Contractor is an independent contractor, and is not an employee or agent of the Department.

(f) All services contracted for are to be performed solely by the Contractor and may not be subcontracted or assigned without the prior **written** consent of the Department. The Department may refuse access to or require replacement of any Contractor employee, subcontractor or agent for cause, including but not limited to technical or training qualifications, quality of work, change in security status, or non-compliance with a Department policy or other requirement. Such action shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract.

(g) The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, and limitations of liability, shall survive termination, cancellation or expiration of this Contract.

(h) The Contractor hereby agrees to protect, indemnify, defend and hold harmless the Department from and against any and all costs, claims, demands, damages, losses and liabilities arising from or in any way related to the Contractor's breach of this contract or the negligent acts or omissions of the Contractor.

(i) The Department shall not be deemed to assume any liability for the acts, omissions to act or negligence of the Contractor, its agents, servants, and employees, nor shall the Contractor disclaim its own negligence to the Department or any third party.

(j) If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

## **19. Execution in Counterparts and Authority to Sign.**

This Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. Each person signing this Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

**20. Contract Administration.**

(a) The Department's Contract Manager is Brandi L. McNealy located at 200 East Gainest Street Tallahassee, Florida 32399-0318. Send invoices to same as above.

(b) The Contractor's Contract Manager is \_\_\_\_\_ located at \_\_\_\_\_.

(c) All written and verbal approvals referenced in this Contract must be obtained from the parties' Contract Managers designated in this Section or designees. Notices required to be in writing must be delivered or sent to the intended recipient by hand delivery, certified mail or receipted courier and shall be deemed received on the date received or the date of the certification of receipt.

IN WITNESS WHEREOF, the Department of Financial Services and \_\_\_\_\_, by their duly authorized representatives, have signed this Contract.

\_\_\_\_\_  
Contractor Representative:  
Title:

\_\_\_\_\_  
Department of Financial Services  
The CFO or his designee

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT D  
CLIENT REFERENCES**

The Proposer must list three (3) separate and verifiable clients of the Proposer's firm. The clients shall be listed on this form. Any information not submitted on this form shall not be considered. The clients listed shall be for services similar in nature to that described in this solicitation. Information on each client must be provided on this page:

1. \_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number Extension

\_\_\_\_\_  
Contact Person Title

2. \_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number Extension

\_\_\_\_\_  
Contact Person Title

3. \_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number Extension

\_\_\_\_\_  
Contact Person Title

I authorize the Department to contact these references.

\_\_\_\_\_  
Proposer Signature



**ATTACHMENT E**  
**Contractor Certification Regarding**  
**Scrutinized Companies Lists**

Respondent Contractor Name: _____					
Contractor FEIN: _____					
Contractor's	Authorized	Representative	Name	and	Title:
_____					
Address: _____					
City:	_____	State:	_____	Zip:	_____
_____					
Phone Number: _____					
Email Address: _____					

Notice: Section 287.135, F.S. would operate to make businesses ineligible to contract with the State of Florida in specified circumstances. Currently, the 2012 changes to this section have been enjoined by a court of law. If ultimately upheld by the court, the Respondent who is awarded this contract may be required to amend the contract to certify compliance with the law, i.e. that the business is not and will not engage in business operations in Cuba or Syria that are prohibited by section 287.135, F.S.

As the person authorized to sign on behalf of Respondent, I hereby certify that the company identified above in the section entitled "Respondent Contractor Name" is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject company to civil penalties, attorney's fees, and/or costs.

Certified By: _____,
who is authorized to sign on behalf of the above referenced company.
Authorized Signature Print Name and Title: _____